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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,784	05/25/2006	Sabine Lundgaard	GRP0157US	8823

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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER

MEDWAY, SCOTT J

ART UNIT	PAPER NUMBER
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3763

NOTIFICATION DATE	DELIVERY MODE
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04/16/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

Office Action Summary	Application No. 10/580,784	Applicant(s) LUNDGAARD ET AL.	
	Examiner SCOTT MEDWAY	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 and 39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 and 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05/25/2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/30/2010 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “circumferentially grooved locking extension” and “a correspondingly grooved receiving cavity” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

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consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 1 and all claims depending therefrom are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the terms "circumferentially grooved locking extension" and "a correspondingly grooved receiving cavity" are not disclosed in the Specification and Figures. As best understood, the Specification and Figures disclose a circumferential *protrusion* (see para [0135] of Specification) which corresponds to a *grooved* receiving cavity. Examiner suggests Applicant amend the claim language to specify that the complementary locking means

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includes such a protrusion-groove complementary locking means and that the groove is a circumferentially disposed groove.

5. Additionally, claims 11-14 recite a tap with an annular part and a complementary annular groove. Since claims 11-14 are dependent on claim 1, such claims recite the claimed grooves of claim 1 *further comprising* (i.e., additionally) an annular part and complementary groove as in claims 11-14. Applicant has not disclosed in the Specification or Figures the invention of claim 1 *additionally comprising* a separate protruding part and complementary annular groove. Such a recitation would be interpreted as one distinct groove, a second distinct corresponding groove, a third distinct protruding annular part and a fourth distinct annular groove all part of the same invention. As best understood, Applicant has merely disclosed one annular protrusion and one annular groove.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. **Claims 1-5, 7, 9-14, 17-24, 26 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Pat. 1,032,436) in view of Beeman et al (U.S. Pat. 6,438,802), further in view of Meyerrose (U.S. Pat. 4,907,582).**

Regarding claims 1 and 11-14, Smith discloses a device comprising: a line retaining part (19) and a base part (2), the line retaining part comprising at least one

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groove being open and configured to receive the line via a longitudinal opening defined by the retaining part; the base part comprising fixing means (e.g. a clamp); wherein the line retaining part and base part are provided with complementary locking means (12) between the line retaining part and the base part; and wherein the longitudinal opening is configured to remain open while the line is releasably retained in the groove (Figs. 1-5, especially Fig. 3, show the line retaining part having an open portion is configured to remain open while the line is retained in the groove, the open portion being part of the longitudinal opening. It is noted that Smith does not disclose flexible parts protruding in the groove. Beeman discloses a locking mechanism for fastening a cord or a tube, comprising a plurality of flexible parts (10) protruding into the groove. It would have been obvious for one of ordinary skill in the art at the time of the invention to consider installing flexible retaining parts such as taught by Beeman, so as to apply the known technique of improving the holding capability of a line retaining part with the intended result of allowing a line to be inserted and fixed in place without falling out or becoming loosened from the line retaining part. Such a holding capability using flexible parts is well-known and would have been considered an obvious improvement to those with working knowledge in the art.

It is further noted that Smith and Beeman do not disclose the claimed complementary locking means. Meyerrose discloses a complementary locking means for attaching a base portion to a tube holding portion, where the complementary locking means has a snap-in connection with a circumferentially grooved extension and a corresponding cavity for receiving the groove to create a frictional fit (see Fig. 3).

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Examiner additionally notes that Meyerrose discloses a protruding annular part (i.e., an enlarged head) on the retaining part and a grooved receiving cavity (38) disposed on the base part creating a corresponding locking and allowing swiveling. It would have been obvious for one of ordinary skill in the art at the time of the invention to implement such a complementary locking means in the device of Smith and Berman, since Meyerrose is concerned with the problem of allowing a base and line-retaining part to move relative to one another, and such a well-known means would have been implemented with a reasonable expectation of success.

Regarding claims 2-5 and 7, Beeman discloses that the flexible parts are placed lateral of the groove, designed as flexible blades protruding into the groove and located at an angle between 10 degrees and 80 degrees in relation to the axis of the groove. Additionally, as to claim 7, the retaining means of Beeman are located on both sides of the groove. It would have been obvious to one of ordinary skill in the art to adapt these characteristics of Beeman into the line securing device of Smith, since flexible blades of this configuration would have been considered obvious so as to allow a tube to be inserted into a line retaining part in one direction and be held in place if attempts were made to remove the tube in an opposite direction from its insertion direction. The blades of Beeman are disclosed to be configured in this way so as to allow for such an obvious improvement (Beeman, col. 8, lines 15-25).

Regarding claims 6 and 8, it is noted that Smith in view of Beeman and Meyerrose does not disclose the flexible retaining means placed at only one side of the groove, and that the groove is only one groove. Instead Beeman discloses the flexible

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retaining means placed around the groove and discloses more than one groove.

However, it would have been obvious to consider reducing the amount of flexible retaining means or grooves so as to reduce the cost of the device while still allowing the device to perform its intended function. In addition, it has been held that the omission of an element or part where the remaining elements or parts perform the same functions as before, involves only routine skill in the art. *In re Karlson*, 136 USPQ 184).

Regarding claim 9, Smith shows in Fig. 1 that two grooves are made for accommodating a line each and they are placed essentially in parallel.

Regarding claim 10, it is noted that Smith does not disclose the material the retaining part is made of. It would have been obvious to choose a polymeric material, since polymeric materials were well known at the time, and merely choosing the preferred material on the basis of its suitability for the intended use is considered within the level of ordinary skill in the art. *In re Leshin*, 125 USPQ 416.

Regarding claims 17-24 and 26, Smith discloses, as in Figs. 2 -5, the fixing means of the base part comprising two opposing jaw parts forced together by a hinge and a spring means, where the spring means is a flexible spring part connected between the jaw parts and acting on either of the jaw parts. The jaw parts are shown in the Figures to be designed as a curved hook element, where the hook element is formed at the end of a flexible elongated part of the base. The fixing means is fully capable of being utilized to clip onto structural parts, the clipping being aided by the spring-loaded means previously described. The fixing means comprises mechanical means such as a jaw clamping mechanism for securing the base part near the patient.

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It is noted that Smith does not disclose the base part being formed of polymeric material. It would have been obvious to choose a polymeric material, since polymeric materials were well known at the time, and merely choosing the preferred material on the basis of its suitability for the intended use is considered within the level of ordinary skill in the art. *In re Leshin*, 125 USPQ 416.

8. Claims 1, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choksi et al (U.S. Pat. 4,820,274, hereinafter "Choksi") in view of Meyerrose (U.S. Pat. 4,907,582), further in view of Beeman et al (U.S. Pat. 6,438,802 B1, hereinafter "Beeman").

Regarding claim 1, Choksi discloses a device for securing a line, specifically a medical line, comprising a line retaining part (20) and a base part (40), where the line retaining part comprises at least one groove (e.g. 24,26) for accommodating a line, and where the base part comprises fixing means (e.g. 42,43). Choksi additionally a locking means (e.g. 33) for providing a connection between the line retaining part and the base retaining part. Choksi shows, as in Fig. 7, that a portion of the longitudinal opening is capable of having a remaining portion open while the line is retained in the groove, since the tube is shown to have a lower height than the height of a wall of the line retaining part, and the open portion is the empty space between the top of the tube and the top of the wall of the line retaining part. It is noted that Choksi does not disclose at least one groove designed with flexible retaining means comprising a plurality of flexible parts protruding into the groove. Beeman discloses a locking mechanism for fastening

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a cord or a tube, comprising a plurality of flexible parts (10) protruding into the groove..

It would have been obvious for one of ordinary skill in the art at the time of the invention to consider installing flexible retaining parts such as taught by Beeman, so as to apply the known technique of improving the holding capability of a line retaining part with the intended result of allowing a line to be inserted and fixed in place without falling out or becoming loosened from the line retaining part. Such a holding capability using flexible parts is well-known and would have been considered an obvious improvement to those with working knowledge in the art.

It is further noted that Choksi and Beeman do not disclose the claimed complementary locking means. Meyerrose discloses a complementary locking means for attaching a base portion to a tube holding portion, where the complementary locking means has a snap-in connection with a circumferentially grooved extension and a corresponding cavity for receiving the groove to create a frictional fit (see Fig. 3). Examiner additionally notes that Meyerrose discloses a protruding annular part (i.e., an enlarged head) on the retaining part and a grooved receiving cavity (38) disposed on the base part creating a corresponding locking and allowing swiveling. It would have been obvious for one of ordinary skill in the art at the time of the invention to implement such a complementary locking means in the device of Choksi and Berman, since Meyerrose is concerned with the problem of allowing a base and line-retaining part to move relative to one another, and such a well-known means would have been implemented with a reasonable expectation of success.

Regarding claims 31 and 32, Choksi discloses a means for withholding a line in said groove which comprises a lid part (32) that is fully capable to be connected to the line retaining part by a hinge.

9. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Pat. 1,032,436) in view of Beeman et al (U.S. Pat. 6,438,802), further in view of Meyerrose (U.S. Pat. 4,907,582), further in view of Rebeyrolle et al (U.S. Pat. 5,318,192, hereinafter "Rebeyrolle").

Regarding claims 15 and 16, it is noted that Smith, Beeman and Meyerrose do not disclose limit stops or interacting means such as toothed rings or cogging to allow relative movement of the line retaining part with a base part within a limited range. Rebeyrolle discloses an assembly of a cap portion and a base portion, where the cap and base portions are connected with a snap-in mechanism having teeth (4,6,7,8,9) allowing for relative movement and a limited angular range of movement. It would have been obvious for one of ordinary skill in the art at the time of the invention to merely fashion cogs of Rebeyrolle onto a snap-in mechanism of Meyerrose, so as to allow a selective rotation of the line-retaining part, where the selective rotation improves the accuracy and control of the rotation, and further implementing a stop so as to inhibit free motion when the line or base is accidentally rotated with respect to the other.

10. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Pat. 1,032,436) in view of Beeman et al (U.S. Pat. 6,438,802 B1), further

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in view of Meyerrose (U.S. Pat. 4,907,582), further in view of Bierman (U.S. Pat. 4,711,636).

It is noted that Smith, Beeman and Meyerrose does not disclose the fixing means comprising adhesive means. Bierman discloses a tube connector which may be secured to the patient using adhesive means (col. 2, lines 27-29). It would have been obvious for one of ordinary skill in the art to consider adapting the adhesive pad of Bierman for use on the device of Smith, Beeman and Meyerrose to allow the line-securing device to be attached and fixed to the patient to allow the patient to ambulate or be moved while maintaining the line-securing device in place to secure a line.

11. Claims 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Pat. 1,032,436) in view of Beeman et al (U.S. Pat. 6,438,802 B1), further in view of Meyerrose (U.S. Pat. 4,907,582), further in view of Mawhirt et al (U.S. Pat. 4,944,924, hereinafter "Mawhirt").

Regarding claims 27-30, it is noted that Smith, Beeman and Meyerrose does not disclose the line-retaining part comprising two side parts where the parts are complementary and designed as dovetail joints to form locking means. Mawhirt discloses a device for retaining a tube, comprising two complementary side parts (80,86,88,90 and 58,60,62,64,66) where the side parts form a dovetail joint and are designed as complementary locking means so as to allow the retaining device to be connected with a similar or identical retaining device. It would have been obvious for one of ordinary skill in the art the time of the invention to consider implementing the

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complimentary dovetail joint side parts of Mawhirt into the device of Smith, Beeman and Meyerrose to allow for a variety of lines or tubes to be retained at the same time or to more effectively stack, store or easily transport multiple retaining devices in one container by selectively interlocking them together.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is directed to the *Notice of References Cited*.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT MEDWAY whose telephone number is (571) 270-3656. The examiner can normally be reached on Monday through Friday, 7:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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/Scott J. Medway/
Examiner, AU 3763
04/07/2010

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763